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ELECTION COMMISSION, INDIA

NOTIFICATION

*New Delhi the 30th May 1957*

S.R.O. 1921.—In pursuance of the provisions of Sub-Section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 471 of 1957, presented to the Commission on the 7th May, 1957 under section 81 of the said Act, by Shri Ghanshyam Das Thirani of Brajrajnagar, P. O. Brajrajnagar, District Sambalpur (Orissa State) calling in question the election to the House of the People from the Kalahamdi constituency from the State of Orissa of Shri Pratap Keshari Deo, Maharaja of Kalahandi, P. O. Bhawanipatna, District Kalahandi (Orissa)

Presented to me by Shri H. N. Rathi who has been duly authorised by the Petitioner to present this petition and whose signature has been obtained in the margin and attested as having been signed before me this the seventh day of May, 1957.

DIN DAYAL, Under Secy.  
Election Commission, India.

ELECTION PETITION NO. 471 OF 1957

TO THE ELECTION COMMISSION, GOVERNMENT OF INDIA, NEW DELHI.

In the matter of a petition under Sections 80 and 81 of the Representation of the Peoples Act.

(Through the Secretary to the Election Commission, Government of India, New Delhi.

Shri Ghanshyam Das Thirani of Brajrajnagar, P. O. Brajrajnagar, District—Sambalpur—*Petitioner*.

*Versus*

1. Sri Pratap Keshari Deo, Maharaja of Kalahandi at & P. O. Bhawanipatna, District—Kalahandi.
2. Sri Bijoy Chandra Pradhan Village: Bigapadar, P. O. Phulbani, District Phulbani.
3. Sri Jogeswar Majhi Village—Kuruguda, P. O. Junagarh, Dist. Kalahandi
4. Sri Satyanarayan Jena P. O. Phulbani, Dist. Phulbani.—*Respondents*.

Humble petition of the petitioner aforesaid most respectfully sheweth:—

1. That the petitioner was a candidate during the last General Election for a seat in the House of the People of the Indian Parliament from the Kalahandi Parliamentary Constituency and respondent No. 1, Sri Pratap Keshari Deo, Maharaja of Kalahandi who is the ex-Ruler of Kalahandi State was the rival candidate. Sri Bijoy Chandra Pradhan, Sri Jogeswar Majhi and Satyanarayan Jena were other contesting candidates. The said Sri Bijoy Chandra Pradhan was declared elected to fill the reserved seat and of the remaining candidates the respondent No. 1 Maharaja Sri Pratap Keshari Deo was declared to be elected as having secured the largest number of votes to fill the remaining seats. In the body of this petition the "respondent" will mean only respondent No. 1 Sri Pratap Keshari Deo.

2. The petitioner submits that the election of the respondent Sri Pratap Keshari Deo is void on the following main grounds:—

(a) That corrupt practices have been committed by the returned candidate the respondent and/or his election agent and/or by other persons with the consent of the respondent and his election agents.

(b) That the result of the election in so far as it concerns, the Respondent Sri P. K. Deo has been materially affected by corrupt practices adopted in the interest of the respondent Sri P. K. Deo by persons other than the candidate or his election agent or persons acting with the consent of such candidate and the election agent.

(c) The petitioner submits that by non-compliance with the provisions of the Representation of the Peoples Act and of various rules and orders made under the said Representation of the Peoples Act. The election of the respondent Sri P. K. Deo is void under the provisions of sections 100(i)(b), 100(i)(d)(ii) and 100(i)(d)(iv) as would be submitted in the body of the petition and the material particulars.

3. (a) That the petitioner was a sitting member of the House of the People in the Indian Parliament and sought his election in the last election from the Kalahandi Parliamentary Constituency on the congress ticket and the respondent was seeking election on behalf of the Ganatantra Parishad. In the course of the election work in the above-noted constituency carried on during the period from about the middle of January to 11th of March 1957 or thereabout the respondent threatened the petitioner's supporters and the electors who were the supporters of the Congress party and other persons in whom the petitioner and the electors were interested with injury of all kinds described in this petition and material particulars annexed hereto:—

(b) That the respondent is guilty of corrupt practice, of undue influence by making direct and indirect interference on the part of the respondent and his agents and of other persons with his connivance, approval and consent on his behalf, with free exercise of the electoral right of the supporters of the Congress party and of the petitioner in the manner described in this petition and the accompanying material particulars.

(c) That the respondent is also guilty of corrupt practice of bribery namely of gifts, offers or promises by the respondent or his agents or by other persons of various gratifications to the electors with the objects of directly or indirectly inducing the body of the electors to vote for the respondent and primarily to refrain from voting in favour of the petitioner and generally inducing the supporters of the Congress to refrain from voting.

(d) That the respondent is also guilty of corrupt practice of systematic appeal by the respondent or by his agents and by other persons to refrain from voting in favour of the petitioner on the grounds of caste, race and community.

(e) That the respondent has contravened the rules 131 to 135 of sections 77 and 78 of the Representation of the Peoples Act.

4. That being the ex-Ruler of the ex-State of Kalahandi and one of the founders as well as a leading member of his party namely the Ganatantra Parishad, the respondent enjoyed a considerable influence and hold over some section of the people of the area comprising the said constituency which was exploited by him in illegal ways contrary to the provisions of the Act to serve his own end and being not satisfied with the ordinary methods of influencing the people, the respondent set up a gang of terroristic elements composed of goondas and hoodlums to make it impossible for the petitioner's party to carry on with the propaganda work by threat of injuries of various kinds and of acts of violence. There are innumerable cases where the hired ruffians of the respondent's party led by the respondent himself and his brother and other members of his family indulged

in violent assaults resulting in serious injuries of the person of the Congress party and the electors and supporters of the petitioner. The brother of the respondent Sri Bira Keshari Dec was himself a candidate for the Dharamgarh Assembly Constituency within the Kalahandi Parliamentary constituency. All such occurrences took place throughout the area spread over the whole of the constituency. Some of them have been reported to the Thana Officers of the said constituencies for necessary action. The respondent himself was the leading participant in the propagation and threat of injury and of the cult of violence among his workers and party men as against the congress workers and the petitioner's electors and he was found on many occasions to have openly instigated the voters in course of public meetings to take recourse to violence in case any of the workers or supporters and electors supporting the petitioner or the congress party entered into any village for propaganda work and as a result of this open threat it was impossible for the majority of the supporters of the congress of the backward area of the constituencies to vote for the petitioner and it was rendered impossible for any of the workers of the petitioner to approach the electors with the legitimate election work.

5. That at the instigation of the respondent to use violence against the petitioner and his workers, the car No. ORS-2807 engaged in petitioner's election work was attacked and his driver assaulted and particularly in a meeting on 24-2-57 the respondent personally instigated the voter audience and other persons and his workers and agents to use violence and attack the petitioner's men with lathis. This meeting was also followed by attacks and assaults on the petitioner's men, the respondent having committed offence under section 117 Indian Penal Code of instigation to open violence in the meeting and of abetting the offences. Cases were registered on 25-2-57 at Jayapatna Police Station so much so that the District Magistrate warned the respondent to desist from such unlawful activities. Similarly, the respondent addressed many more meetings in the same manner one of such meetings being held at Bhawanipatna, prior to the date of polling at Sadar Constituency under the very nose of the administration, where he referred to the warning of the District Magistrate and again openly provoked and instigated his workers and audiences to use violence against the supporters of the petitioner.

6. That similarly in many key places in the constituency incidents of rioting, wrongful confinement, breach of peace and man handling attack and throwing of stones causing grievous hurt and injury to the petitioner's men and extortion of money took place. These are some of the cases which were among the innumerable unhappy episodes engineered by the respondent and at his instance unquestionably set at naught the liberties of the people to exercise their franchise according to their free will and the respondent directly and indirectly vitiated the atmosphere of calm that should precede free and fair election and the respondent had so much terrorised the minds of the people through subversive means of coercion and intimidation and by being an accomplice in many of the incidents resulting in flagrant violation of law, that the whole election could not be held as a free election.

7. That apart from the corrupt practice of undue influence as stated above, the respondent was also guilty of the corruption of bribery of various kinds to the voters and to his workers and also gave the allurements of liquor and which was made free use of at the cost of the respondent and his agents and at his instance at the different centres. There has been over and above the aforesaid corrupt practices of bribery and undue influence, corrupt practices, under section 123 (3) (4) (5) and (6) of the Representation of the Peoples Act.

8. That over and above the aforesaid corrupt practices, there has been non-compliance with the provisions of the Representation of the Peoples Act and of the rules and orders made in the Representation of the Peoples Act in the following manner:—

- (a) In Booth No. 54 Purunapada in Bhawanipatna constituency the respondent mishandled the ballot box on 6th March 1957 by peeling off a symbol of one of the boxes between hours 11 A.M. and 1 P.M. which is also an offence falling under section 136 (1) (f) of the Representation of the Peoples Act.
- (b) In the Champatipalli Booth in Titlagarh constituency on 25th February, 1957, the Presiding Officer adjourned the dates of polling under section 157 (2) of the Representation of the Peoples Act, but instead of polling

under rule 40 there was a fresh polling u/s 58 of the Act and due to this illegality the petitioner has been prejudiced.

- (c) That contrary to the rules most of the workers of the respondent were constantly under the influence of liquor in course of their propaganda.
- (d) Apart from the corrupt practices as stated above, the result of the election in so far as it concerns the respondent's candidature has been materially affected by corrupt practices committed in the interest of the respondent by persons other than the respondent or his election agent or persons connected with the consent of such candidate or election agents and the petitioner submits that such corrupt practice was committed by the candidate or his election agent in conformity to the orders of the candidate and his election agent and no such corrupt practice was of trivial or limited character or took the form of customary hospitality which did not affect the result of the election and the respondent and his election agent did not take any means reasonable or otherwise for preventing the commission of corrupt practices at the election and in other respects the election was not free from corrupt practices on the part of the candidate and his agents. The petitioner also submits that as a result of the corrupt practices committed in the interest of the said returned candidate as stated above and the non-compliance with the provisions of the Act and of the rules and orders made under the Act as aforesaid, the result of the election has been materially affected.

9. That the usual deposit u/s 117 of the Representation of the Peoples Act has been made and the petitioner encloses herewith the Government Treasury receipt showing that a deposit of Rs. 1000 was made by him in favour of the Secretary to the Election Commission as security for the cost of the petition. This petition is also within time under section 67 (a) and section 81 of the Representation of the Peoples Act and is being made within 45 days of the date of the election of the respondent.

#### *Prayer*

The Petitioner therefore prays most respectfully

- (a) That it may be declared that the election of the returned candidate, the respondent No. 1 Sri Pratap Keshari Deo, Maharaja of Kalahandi is void.
- (b) Further prays for an order declaring that the Petitioner has been duly elected.
- (c) For such further order or orders as may be deemed fit and proper under section 99 of the Representation of the Peoples Act, 1951.

#### *Verification*

I, Ghanshyam Das Thirani aged 41 son of Late Shri Asharamji Thirani at present residing at Brajrajnagar, District Sambalpur, do hereby solemnly affirm and state that facts stated in paragraph 1 and 3(a) of this petition are true to my knowledge and the facts stated in paragraph 2a, 2b, 2c, 3b, 3c, 3d, 3e, 4, 5, 6, 7, 8 and 9 of this petition are based on information received and which I believed to be true and I sign this verification today, the 6th of May 1957 at 2/6, Lansdowne Road, Calcutta.

GHANSHYAM DAS THIRANI.

#### *Particulars u/s. 83(b) of the R. P. Act.*

In the body of the particulars below the "respondent" will mean only respondent No. 1 Sri Pratap Keshari Deo.

#### *Particulars*

1. At the instigation of respondent and his agents and workers, the jeep car engaged in petitioner's election work was attacked and the petitioner's driver assaulted, as a result of which the electors of the locality were frightened and no further election work was possible on behalf of the petitioner in the locality. The date of occurrence was 23rd of February 1957 and the place of occurrence was Deipur under Jayapatna Police Station. The names of the persons guilty of the corrupt practice aforesaid were Bebananda Sahani, Ariun Challan, Sada Pradhan, Bhatti Gauda, Ani Pradhanj, Bikram Patra, Kasti Mahali, Kiori Patra, Dambarudhar Bhairmal, Krupasindhu Nariha, Sidheswar Patra, Lokanath Patra, Netra Behuria and others.

The petitioner understands in this connection Police instituted Jayapatna Police Case No. 7, dated 24th February 1957 under section 395 Indian Penal Code and have submitted charge sheet against some of the persons for assaulting the driver of the petitioner and extorting money from the agents of the petitioner.

On the same date and place at the instigation of the respondent and his agents, the aforesaid persons who were his workers committed extortion of money from the driver of the car engaged by petitioner and workers as a result of which all work for election of the petitioner in the area had to be stopped and the electors were frightened.

2. In a meeting dated the 24th February 1957 the respondent personally instigated the electors who constituted the audience to use violence and to attack the petitioner's workers and electors with lathi. The place of occurrence was Jayapatna. Similar violent and provocative and threatening statements were made by the respondent personally in group meetings at Dharmgarh on the 19th February, 1957 and in a public meeting in Koksara on the 23rd of February 1957 in which the respondent personally instigated the electors audience to assault the congress workers, damage their jeeps and snatch away their money and assured them that he would help them to the last in case they were impleaded in criminal cases. As a result of such violent activities the electors and the workers in support of the petitioner were frightened and the petitioner's election work could not proceed.

3. On the 5th March 1957 at Bhawanipatna town near the market place, the respondent himself addressed about four thousand persons including a large number of electors prior to the date of polling of the Sadar constituency where he referred to the warning of the District Magistrate against his violent activities and repeatedly instigated threatening the electors and voters and workers supporting the petitioner and frightened them and instigated his workers to assault the petitioner's supporters.

4. On 3rd of March 1957 at village Kuten under Kesinga Police Station, Sobha Singh and 8 others who were respondent's workers and agents committed acts of rioting and wrongful confinement against the supporters of the petitioner.

5. On 3rd of March 1957 at village Narala, the workers and agents of the respondent threatened the workers and electors supporting the petitioner resulting in a breach of peace.

6. On the 5th of March 1957 at Ghasipada in Bhawanipatna town Angada Ghasi one of the respondent's workers and agents, at the instigation of respondent assaulted and man-handled the workers and supporters of the petitioner resulting in a thorough dislocation of election work of the petitioner in the area.

7. On 1st of March 1957 at Bhejipadar under Junagarh Police Station Ranjit Danda Sena, Purnachandra Bisi, Pari Paiko, Ranjit Naik, Upendra Disi and others at the instigation of respondent and his agents assaulted and man-handled the petitioner's workers and supporters thoroughly dislocating the election work of the petitioner.

8. On 19th of February 1957 at Dharamgarh, at the instigation of respondent and his agents about 30 young men attacked and threw stones at the supporters and workers of the petitioner and stopped all election work to be done on behalf of the petitioner's party.

9. On the 14th of February 1957 at Jayapatna, Karim Khan, Govind Barik and Dayanidhi Barik, who were workers of respondent, at the instigation of respondent and his agents caused hurt to the extent of endangering life of some of the supporters of the petitioner and caused a terror in the locality and the mind of the petitioner's supporters.

10. That the instigation of the respondent and his agents, the workers of respondent practised bribery by means of distribution and offer of liquor and meat to the adibasi electors of Phulbani constituency with the object of inducing them to support the respondent's candidature and of refraining from voting for the petitioner. This distribution and offer occurred throughout the Phulbani and Boudh constituencies during the period from 6th to 11th of March 1957.

11 The respondent systematically appealed to the electors refrain from voting in favour of the petitioner on the ground of the petitioner's caste, race and community and on the 15th of March 1957 in Bhawanipatna town the respondent himself addressing the audience of about 5000 blamed the congress for setting up a Marwari (the petitioner) as the representative of the people of Kalahandi and warned the electors that the prestige of the native land was going to be sold in the hands of a marwari outsider. He repeatedly appealed and exhorted the audience and voters not to vote for the petitioner as he was a marwari of Calcutta and was set up by the congress to contest against respondent even though the petitioner had no interest in Orissa.

12. The accounts submitted by the respondent are not correct account of all expenditure in connection with the election work incurred or authorised between

the period of the publication of notification calling the election and the date of declaration of the result.

*Verification*

I, Ghanshyam Das Thirani, aged 41 son of Late Shri Asharamji Thirani at present residing at Brajrajnagar District Sambalpur, do hereby solemnly affirm and state that facts stated in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the above particulars under section 83 (b) annexed to the said petition are based upon information received and which I believed to be true, and I sign this verification today the 6th of May 1957 at 2/6, Lansdowne Road, Calcutta.

GHANSHYAM DAS THIRANI.

[No. 82/471/57.]

By order,

DIN DAYAL, Under Secy.